



PUBLIC NOTICE

Federal Communications Commission
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DA 03-2099

Released: June 26, 2003

**DOMESTIC SECTION 214 APPLICATION FILED FOR ACQUISITION OF ASSETS OF
TALKINGNETS HOLDINGS, LLC BY DSLNET COMMUNICATIONS, LLC and DSLNET
COMMUNICATIONS VA, INC.**

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 03-139

On June 11, 2003, DSLnet Communications, LLC and DSLnet Communications VA, Inc. (together, DSLnet), and TalkingNets Holdings, LLC (TalkingNets) (together, with DSLnet, Applicants) filed an application, pursuant to sections 63.03 and 63.04 of the Commission's rules,¹ for DSLnet to acquire certain assets from TalkingNets.² On February 19, 2003, TalkingNets, Inc., the parent company of TalkingNets, and TalkingNets filed for protection under Chapter 11 of the United States Bankruptcy Code with the United States Bankruptcy Court for the Eastern District of Virginia (U.S. Bankruptcy Court), Case Nos. 03-10784 and 03-10785.³ Accordingly, Applicants request expedited treatment of their application.

Applicants assert that the proposed transaction is eligible for presumptive streamlined treatment under section 63.03(b)(2)(i) of the Commission's rules because the proposed transaction will result in the transferees having a market share in the interstate, interexchange market of less than 10 percent; the transferees would provide competitive telephone exchange services or exchange access services (if at all) exclusively in geographic areas served by a dominant local exchange carrier that is not a party to the transaction; and the Applicants are not dominant with respect to any service.

TalkingNets is a limited liability company organized under the laws of Delaware. It is a wholly-owned subsidiary of TalkingNets, Inc., a privately held company. TalkingNets' principal offices are located 201 N. Front Street, Suite 202, Wilmington, North Carolina, 28401.

¹ 47 C.F.R. §§ 63.03, 63.04; *see* 47 U.S.C. § 214.

² Applicants have also filed a transfer of assets application related to international services. Any action on this domestic section 214 application is without prejudice to Commission action on other related pending applications.

³ 11 U.S.C. §§ 101-1330

TalkingNets is authorized to provide facilities-based and/or resold local interexchange telecommunications services in California, Colorado, the District of Columbia, Florida, Illinois, Maryland, Massachusetts, New York, North Carolina, Ohio, Texas, Virginia and Washington. TalkingNets offers broadband telecommunications and information services to the public in the District of Columbia, Maryland and Virginia.

DSLnet Communications, LLC is a Delaware limited liability company that provides high-speed communications services. DSLnet Communications VA is a Virginia corporation. Both have principal offices located at 545 Long Wharf Drive, Fifth Floor, New Haven, Connecticut 06511 and are wholly owned by DSLnet, Inc., a Delaware corporation with its principal offices located at the same address. DSLnet holds domestic and international Section 214 authority pursuant to the Commission's rules.⁴ DSLnet also is authorized to provide facilities-based and/or resold local exchange and interexchange telecommunications in 50 states and local exchange service in the District of Columbia pursuant to certification, registration or tariff requirements or on a deregulated basis.

As part of the TalkingNets bankruptcy, TalkingNets, Inc. and TalkingNets and DSL.Net, Inc., the parent company of DSLnet, executed the Asset Purchase Agreement (Agreement), whereby, among other transactions in connection with the Agreement, TalkingNets will sell to DSLnet certain assets and assign all broadband customer accounts. Specifically, the assets to be transferred include network equipment supporting the provision of broadband telecommunications and information services and certain end-user accounts. The TalkingNets assets and customer base to be acquired are located in the District of Columbia, Maryland, and Virginia. On April 9, 2003, the U.S. Bankruptcy Court approved the Agreement between TalkingNets, Inc., TalkingNets and DSL.Net, Inc. Although the Agreement has been approved, TalkingNets continues to operate the regulated assets until all necessary regulatory approval is obtained.

Applicants state that the proposed transaction is in the public interest because it will promote the continuation of service to TalkingNets' current customers and will allow DSLnet to expand its operations in a cost-efficient manner, thereby enhancing its competitive position and ability to provide high quality services. DSLnet contends that it can operate the purchased assets in an efficient and economical manner and bring a stronger financial basis to these operations. Applicants assert that the proposed transaction will permit DSLnet to provide an array of high quality, economical and efficient broadband and information services, enhance competition and thus serve the public interest.

GENERAL INFORMATION

The acquisition of assets identified herein has been found, upon initial review, to be acceptable for filing as a streamlined application. The Commission reserves the right to return

⁴ See File No. ITC-214-19990716-00434 (Global facilities-based and resale authority); *see also*, File No. ITC-T/C-20011109-00600).

any acquisition of assets application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Interested parties may file **comments within 14 days and reply comments within 21 days** of this notice.⁵ Unless otherwise notified by the Commission, Applicants are permitted to transfer assets on the 31st day after the date of this notice.⁶ Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send e-mail to ecfs@fcc.gov, and should include the following words in the subject line "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

In addition, one copy of each pleading must be sent to each of the following:

- (1) the Commission's duplicating contractor, Qualex International, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554; e-mail: qualexint@aol.com; facsimile: (202) 863-

⁵ See 47 C.F.R. § 63.03(a).

⁶ Such authorization is conditioned upon receipt of any other necessary approvals from the Commission in connection with the proposed transaction.

2898; phone: (202) 863-2893;

- (2) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C437, Washington, D.C. 20554; e-mail: twilson@fcc.gov;
- (3) Dennis Johnson, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 6-A461, Washington, D.C. 20554; e-mail: dcjohnso@fcc.gov;
- (4) Jeremy Miller, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C211, Washington, D.C. 20554; e-mail: jemiller@fcc.gov;
- (5) Imani Ellis-Cheek, Telecommunications Division, International Bureau, 445 12th Street, S.W., Room 6-A739, Washington, D.C. 20554; email: iellis@fcc.gov;
- (6) Christopher Killion, Office of General Counsel, 445 12th Street, S.W., Room 8-C740, Washington, D.C. 20554; e-mail: ckillion@fcc.gov.

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. They may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com.

For further information, please contact Tracey Wilson, at (202) 418-1394, or Dennis Johnson at (202) 418-0809.

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